

IN THE UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF TENNESSEE  
SOUTHERN DIVISION at CHATTANOOGA

IN RE:

JAMES P. KEEL, And  
JOAN B. KEEL,  
Debtors

CASE NO. 1:18-bk-14988-NWW

CHAPTER 7

WALTER N. WINCHESTER,  
SUCCESSOR TRUSTEE

Plaintiff.

AP 1:20-ap-01027-NWW

vs.

BAYVIEW LOAN SERVICING, LLC,  
ROBERT J. WILKINSON, CHAPTER  
7 TRUSTEE, JAMES P. KEEL AND  
JOAN B. KEEL

Defendants.

RESPONSE BY TRUSTEE TO ORDER TO APPEAR AND SHOW CAUSE AND  
POSSIBLE ENTRY OF A DEFAULT JUDGEMENT IN FAVOR OF DEFENDANT  
BAYVIEW LOAN SERVICING, LLC

COMES NOW the Chapter 7 Trustee Robert J. Wilkinson, by and through counsel, and respectfully responds to the Court's entry of an Order to Appear and Show Cause in the above-styled adversary proceeding. The Trustee objects to the entry of a default judgment in favor of Bayview Loan Servicing, LLC. He would show the additional relevant information as follows to the Court's Order dated November 10, 2020:

1. The Chapter 7 Trustee Robert J. Wilkinson is duly appointed Trustee for the above-named Debtors James P. Keel and Joan B. Keel.

2. The Trustee as named as a defendant in the adversary proceeding filed June 18, 2020 in this Court.
3. The Trustee filed a verified answer on July 15, 2020, (Doc. 12) so that Bayview Loan Servicing is not the only defendant to have filed a response to the complaint.
4. The Trustee would show that entry of a default judgment in favor of Bayview Loan Servicing LLC would unfairly prejudice the Chapter 7 estate in this matter and deprive it from an adequate opportunity to be heard and from benefitting from an asset otherwise available to its creditors.
5. The Trustee opposes any entry of a default judgment by the Court that would award the proceeds held in the Court's registry to Bayview Loan Servicing LLC.
6. The Trustee and his counsel will be present at the show cause hearing currently scheduled by the Court on December 3, 2020 at 10:30AM.
7. The Trustee would show that such a hearing is insufficient and would ask that an evidentiary hearing be held in order to examine the appropriate party in this matter to receive such monies.
8. The Trustee would request such an opportunity to be heard and brief the Court on case law that may support monies being awarded to the Chapter 7 estate.

Respectfully submitted,

By: /s/Nancy A. Cogar  
Nancy A. Cogar, BPR 32035  
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*Attorney for Trustee*

CERTIFICATE OF SERVICE

I hereby certify that an exact copy of this foregoing pleading has been served on the US Trustee,  
Chapter 7 Trustee, Legal Counsel for Bayview Loan Servicing, LLC and the Successor  
Trustee/Plaintiff Walter N. Winchester on this 17<sup>th</sup> day of November 2020

/s/Nancy A. Cogar